

REMARKS

The Office Action dated July 14, 2004, has been received and carefully considered.

Claims 1-18 are currently pending, claims 1, 2, 7, 8, 13 and 14 have been amended, and claims 19 and 20 have been added. Reconsideration of the outstanding rejections in the present application is respectfully requested based on the above amendments and following remarks.

I. THE PATENTABILITY REJECTION OF CLAIMS 1-6

On page 2 of the Office Action, claims 1-6 were rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter because the “claimed invention as a whole is not within the technological arts.” In particular, the Examiner states that the “instant claims fail to recite the use of any type of technology (e.g., computer system) within the recited steps of the claimed method of managing agents’ commissions.” The Examiner “suggests adding language to the body of the independent claims that indicates the steps are carried out by the use of technology (i.e., computer, data processor).”

Applicants have amended independent claim 1 to recite that the claimed method is performed “using a data processor.” Claims 2-6 depend from independent claim 1 and thus recite additional steps performed “using a data processor.”

In view of the foregoing, it is respectfully requested that the aforementioned patentability rejection of claims 1-6 be withdrawn.

II. THE ANTICIPATION REJECTION OF CLAIMS 1, 7 AND 13

On page 3 of the Office Action, claims 1, 7 and 13 were rejected under 35 U.S.C. §102(e) as being anticipated by Younger et al. (U.S. Publication No. 2002/0082971). This rejection is hereby respectfully traversed.

Under 35 U.S.C. §102, the Patent Office bears the burden of presenting at least a prima facie case of anticipation. *In re Sun*, 31 USPQ2d 1451, 1453 (Fed. Cir. 1993) (unpublished). Anticipation requires that a prior art reference disclose, either expressly or under the principles of inherency, each and every element of the claimed invention. *Id.* “A prior art reference anticipates a claim only if the reference discloses, either expressly or inherently, ***every limitation of the claim.***” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987). “The ***identical invention*** must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226 (Fed. Cir. 1989). “Absence from the reference of ***any*** claimed element negates anticipation.” *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed. Cir. 1986).

Although Applicants disagree with the propriety of the rejections proposed by the Office Action for claims 1, 7 and 13, Applicants have nevertheless amended the claims to clarify the claimed inventions. Specifically, independent claims 1, 7 and 13 have each been amended to recite “wherein said agent identifying information comprises at least one selected from the group consisting of a name, an address, and a telephone number.”

Applicants respectfully submit that in view of these amendments and the remarks expressed below regarding the rejections under §103(a), claims 1, 7, and 13 are now allowable over the cited references.

Claim 2-6, 8-12 and 14-18 are dependent upon independent claim 1, 7, and 13, respectively. Thus, since independent claims 1, 7 and 13 should be allowable as discussed above, claims 2-6, 8-12, and 14-18 should also be allowable at least by virtue of their dependency on independent claim 1, 7 or 13.

In view of the foregoing, it is respectfully requested that the aforementioned anticipation rejection of claims 1, 7 and 13 be withdrawn.

III. THE OBVIOUSNESS REJECTION OF CLAIMS 2-6, 8-12 AND 14-18

On page 5 of the Office Action, claims 2-6, 8-12, and 14-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Younger in view of Examiner's use of Official Notice. This rejection is hereby respectfully traversed.

Applicants respectfully submit the §103(a) rejections of claims 2-6, 8-12, and 14-18 are improper and must be withdrawn as unavailable art. Section 103(c) of the U.S. Patent Laws states as follows:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, ***shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.***

(emphasis added).

Younger — the primary reference supporting the §103(a) rejections — was owned by GE Financial Assurance Holdings, Inc., the same entity which owned the claimed invention or was subject to an obligation of assignment of the claimed invention at the time it was made, and thus cannot preclude patentability of the pending claims under an obviousness rejection. Indeed, an assignment of the present application from all inventors to GE Financial Assurance Holdings, Inc. is recorded at Reel 011486, Frame 0376.¹

¹ Both the pending application and the Younger reference are currently owned by Genworth Financial, Inc. The assignments of the application and the Younger reference from GE Financial Assurance Holdings, Inc. to Genworth Financial, Inc. are recorded at Reel 015144, Frame 0517 and Reel 015144, Frame 0466, respectively.

Further, the Applicants traverse this rejection because there is no support in the record for the conclusion that the identified features are “old and well known.” In accordance with MPEP § 2144.03, the Examiner must cite a reference in support of his position.

In view of the foregoing, it is respectfully requested that the aforementioned obviousness rejection of claims 2-6, 8-12, and 14-18 be withdrawn.

IV. CONCLUSION

In view of the foregoing, it is respectfully submitted that the present application is in condition for allowance, and an early indication of the same is courteously solicited. The Examiner is respectfully requested to contact the undersigned by telephone at the below listed telephone number, in order to expedite resolution of any issues and to expedite passage of the present application to issue, if any comments, questions, or suggestions arise in connection with the present application.

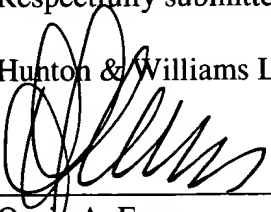
To the extent necessary, a petition for an extension of time under 37 CFR § 1.136 is hereby made.

Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-0206, and please credit any excess fees to the same deposit account.

Respectfully submitted,

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By:



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